REMARKS

In the present Office Action, dated June 23, 2008, claims 1-14 are pending in the application, and currently stand rejected. Applicants' undersigned attorney wishes to thank Examiner Termanini for the opportunity, on September 5, 2008, to conduct a telephonic interview regarding the pending Application. During the interview, the cited art and Applicants' proposed amendments were discussed. During the interview the Examiner agreed that, pending final wording of the amendments and a further search, the outstanding rejection appears to be overcome. The contents of the interview are further addressed in the remarks below.

In accordance with the undersigned's current understanding of the obligations imposed by *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358 (Fed. Cir. 2003) and *McKesson Information Solutions, Inc. v. Bridge Medical, Inc.*, 487 F.3d 897 (Fed. Cir. 2007), the undersigned wishes to inform the Examiner that the present application is related in subject matter to application number 09/775,033, filed February 1, 2001, which is currently pending before Examiner Peng Ke and may have a file history that contains material information. A final Office Action was issued in that application on January 25, 2008, in which claims 1-25 and 42-67 were rejected in light of U.S. patent no. 6,243,707 and U.S. Pat. No. 6,448,977. In assessing the patentability of the pending claims, the Office is respectfully requested to review the file history, determine whether the application has "similar subject matter" and, if so, consider each Office Action, including each reference on which a rejection is based, and each paper submitted by Applicant therein.

Claim Rejections – 35 U.S.C §102

Claims 1-14 are pending in the application and stand rejected under 35 USC 102(e) as being anticipated by Humpleman et al. (US 6,546,419). Applicants have amended claim 1 to recite, in part:

> A computer-readable medium encoded with a data structure formatted according to extensible markup language (XML) including data representative of a canonical UI description of a device to be controlled for use by a universal console, said universal console operable to receive

> at least one user preference for rendering said UI description, wherein said UI description comprises:
>
> (1) action-commands to which said device responds, and
>
> (2) descriptors for rendering a user interface on said universal console, said descriptors describing at least one prompt for a user to select at least one of said action-commands, wherein said at least one prompt is selected in accordance with said at least one user preference, *said at least one user preference comprising at least one mode of the group comprising visual, aural, and tactile user interface modes, wherein the descriptors are capable of being instantiated on the user interface in accordance with any one of said user interface modes*.

(emphasis added). Support for the amendments can be found at least in the specification at paragraphs 0022 and 0034.

As the Applicant explained during the telephonic interview, Humpleman is generally directed to the configuration and control of home devices using a traditional display device, and consolidating a sequence of control steps into a macro for operator convenience. Humpleman discloses a home network in which each networked home device is associated with one or more HTML files that define the control and command functions associated with the device. The HTML files define specific GUIs for display on a browser based DTV. See, for example, Humpleman column 6 lines 63-64 ("each home device sends its custom GUI to the browser based DTV"). As is known in the art, such custom GUIs specifically define the user interface layout and its user interface features (e.g., forms and radio buttons) and are not customizable by the user. The device-specific HTML files are limited to display devices capable of rendering the files according to the custom GUIs as defined therein.

With entry of the above amendments, claim 1 recites at least one user preference comprising at least one mode of the group comprising visual, aural, and tactile user interface modes, wherein the descriptors are capable of being instantiated on the user interface in accordance with any one of said user interface modes. The user interface may be instantiated taking into account the user preference as well as the computing element's canonical user interface description. As explained during the interview, the universal console can thus, for example, accommodate a user's needs or disabilities when instantiating a user interface via tactile or speech-based interfaces (see application paragraph 0034).

Furthermore, because the user interface description is canonical, the interface is not limited to a particular interface design or interface mode. The user interface can thus be manifested in accordance with the type of universal console device and the preferences of the user while adhering to the canonical user interface description. Such a customized interface may provide a visual or non-visual user interface that takes into account the user's preferences or disabilities. For example, a volume control interface can be manifested visually as a sliding selector, a series of discrete radio buttons, or a series of choices on a touchscreen. Alternatively, the volume control can be manifested as text-to-speech instructions in conjunction with programmable buttons on an audio based interface device. The various manifestations of the user interface can be instantiated without the need for updated interface description files from the network device. In contrast, in the system disclosed by Humpleman, each networked home device is associated with a specific GUI for that device and is not customizable. Furthermore, if the user interface device or the user preferences are not supported by the associated HTML files, the device's GUI will not be displayed properly if at all. Applicants respectfully submit that the cited passages from Humpleman do not disclose the capability of instantiating any one of a visual, an aural and a tactile mode of communication as now recited in claim 1. Applicants respectfully request reconsideration of the rejection of claim 1.

For the foregoing reasons, the Applicant respectfully submits that independent claim 1 is allowable. The Applicants also respectfully submit that dependent claims 2-14, at least by virtue of their dependency from the allowable independent claim, is also allowable. A Notice of Allowance for claims 1-14 is respectfully requested.

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